SEIFSA NEWS

JANUARY / FEBRUARY 2016

THE **YEAR AHEAD**

UNDERSTANDING THE **TAXATION LAWS** AMENDMENT ACT

HIGH ELECTRICITY PRICE INCREASES WILL HAVE A CRIPPLING EFFECT ON THE ALREADY EMBATTLED METALS AND ENGINEERING SECTOR

SEIFSA

Steel and Engineering Industries Federation of Southern Africa

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26 & 27 May 2016

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DEAR READERS

We would like to inform you of the new changes regarding our SEIFSA News publication.

We have changed the number of issues for SEIFSA News from 11 issues to 6 bumper issues annually.

These bumper issues will have both a printed and electronic format. We will be sending 2 400 printed issues to our targeted audience within our membership base. The electronic version will be sent to over 10 000 companies within the metals and engineering industry.

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FROM THE **CHIEF EXECUTIVE OFFICER**'S DESK

By all accounts, this will be another tough year for South Africa. The prospects are not good at all. Our economy continues to be on the doldrums and our currency, the Rand, is far from recovering from the downward slide of 2015, which was worsened by President Jacob Zuma's inexplicable decision to drop then Finance Minister Nhlanhla Nene from the Cabinet.

Ordinarily, tough times require us, as compatriots, to work much closely together to solve whatever challenges confront us, in the interest of our beautiful country. This makes close co-operation and collaboration between and among all key stakeholders – in particular the Government, business and labour – all the more imperative.

Regrettably, for a whole host of reasons, it appears that some South Africans are drawing apart at the very time when they need to be cohering. Last year ended on a terrible note, with all sorts of racial insults flying around, and 2016 started in very much the same way. On 2 February 2016 – which marked the 26th anniversary of the day on which the last president of apartheid South Africa, Frederik Willem de Klerk, took the country and the world by surprise when he announced, during his State-of-the-Nation address to Parliament, the unbanning of thitherto proscribed political organisations and the unbanning of Nelson Rolihlahla Mandela and other political prisoners – a group of South Africans indicated its intention of laying charges of apartheid-era human rights violations against Mr De Klerk.

As respected political analyst Professor Steven Friedman noted during our strategic planning session in December last year, racial frictions are growing more pronounced at a time when South Africans need to be pulling together in the same direction. That is most unfortunate. At a time like this one wishes that one had a magic wand that one would wave around and ensure that South Africans overcome their racial hang-ups and work together as a coherent nation.

Similarly, one wishes that the same magic wand would ensure a higher degree of maturity among the three stakeholder groups vital for our economy's performance: the Government, business and labour. For as long as these important stakeholder groups do not accept one another's bona fides and work together as a team, our beloved country, South Africa, will not realize its true potential.

This non-alignment between business and labour is likely to play itself out yet again when our sector negotiates with labour on wages and conditions of employment next year. When that time comes, we are likely to see business and labour speaking past each other, as though they live on different planets, at a time when the metals and engineering sector is bleeding.

Those negotiations are still a year away from now. At the end of each round of negotiations, inevitably some companies in Associations affiliated to SEIFSA cry foul, arguing that a deal was struck without their mandate or knowledge. Objectively, of course, such claims are not valid because SEIFSA acts strictly in accordance with the mandate given to it, and does not take decisions at all on matters that are the subject of negotiations.

Following the complaints that we received at the end of the 2014 negotiations and what we were told by various companies when we subsequently met them to explain how the process had gone, one thing became blatantly clear: there is considerable room for improvement when it comes to communication between some Associations, which are the ones which give SEIFSA a mandate, and the companies that belong to those Associations.

We at SEIFSA are keen to ensure that the apparent chasm that exists in the aforementioned case is bridged so that the mandate coming from the respective employer Associations will be truly representative of the companies that they represent. Therefore, we ask that all member companies in Associations affiliated to SEIFSA participate actively within their Associations, especially in discussions leading to the formulation of negotiating mandates. It is vitally important that that active involvement starts now and continues right into and throughout the negotiations in 2017.

Please, do participate, dear member company. The Associations represent you and your interests, and SEIFSA represents their collective interests. They cannot represent your interests effectively unless they know what they are because you will have articulated them in their meetings.

However, member companies must also be aware of the fact that their views, expressed through their Association, do not on their own constitute SEIFSA's mandate. Just as companies have to make their voices heard within Associations and get matters debated until a consensus emerges which represents the views of that Association, the same happens in the case of

Associations at SEIFSA Council Meetings. There, too, our member Associations debate matters vigorously among themselves and emerge with a consensus which represents the views of the SEIFSA Council. It is the consensus views of the SEIFSA Council – and not those of one Association or two – that constitute SEIFSA's mandate.

Personally, I am very keen to ensure that we do not have companies complaining, after the conclusion of the 2017 negotiations on wages and conditions of employment, that they were kept in the dark or did not participate in shaping the Federation's mandate through their respective Associations. We at SEIFSA have absolutely no interest in this or that kind of settlement. Instead, our role is strictly to execute the mandate of our member Associations, and not to lead them in one direction or another. When it comes to negotiations, we no more than agents carrying out the wishes of their members.

It is important that all companies keep that in mind as they begin their preparations for the 2017 MEIBC negotiations. It can hardly be fair for SEIFSA to be blamed, as has often been the case, for negotiation outcomes that were not of the Federation's doing.

My challenge to all companies that are members of Associations affiliated to SEIFSA is simple: get involved in shaping your Association's – and, therefore, indirectly SEIFSA's – mandate for the 2017 wage negotiations. You will have nobody but yourself to blame if you should choose not to be involved.

The SEIFSA Awards for Excellence for 2015 are upon us. This is yet another opportunity for us to recognise excellence in our sector.

If you care enough about manufacturing in Southern Africa in general and the metals and engineering sector in particular and believe that you are one of the companies that excel in one or other part of business, then you also don't want to miss out on the opportunity to enter for the SEIFSA Awards for Excellence so that you can be recognised publicly for your excellence and be rewarded for it.

There are seven categories in which you can seek to be recognised by a panel of independent experts. These are:

- **Most Innovative Company of the Year**, to be awarded to a company that has shown the best level of innovation in Research and Development or Production, in the process either gaining market advantage or reducing production costs;
- **Health & Safety Award of the Year,** to be awarded to a company with the best legal compliance record when it comes to Health and Safety or the lowest Lost Time Injury Frequency Rate (LTIFR);
- **Best Corporate Social Responsibility Programme of the Year**, to be awarded to a company with a CSI project that makes the biggest impact on the lives of its beneficiaries;
- **Customer Service Award of the Year,** to be awarded to a company with the best/highest rating by its customers for its performance in customer service;
- **Most transformed company of the Year** (X2), to be awarded to the most transformed company in terms of the composition of its Board of Directors, Executive Management and Managerial Team: one category will pit companies employing fewer than 100 people against one another, and the second category will pit companies employing more than 100 companies against one another.
- **Decade of the Artisan Award,** to be awarded to a company with the highest number of artisans trained each year (for itself and/or the industry).

Among the awards to be given out in the CEO's Awards category will be one for the SEIFSA-affiliated Employer Association of the Year, to be given to an Association that has worked hard to grow its membership and to ensure alignment with the Federation and its other Associations.

So, does your company excel in anyone of the categories mentioned above? If so, enter the SEIFSA Awards for Excellence and stand a chance to be recognised for your excellence. Such recognition should help you to improve morale among your employees, to motivate them and, through your marketing efforts, to get your company to stand out among its competitors. For more details, please visit www.seifsaawards.co.za.

Winners of the SEIFSA Awards for Excellence will be announced at a dinner that will take place on 26 May 2016, the first day of the Southern African Metals and Engineering Indaba 2016. Now in its second year, this vital conference will take place on 26-27 May at the IDC Conference Centre in Sandton, following our conclusion of a strategic partnership with the Industrial Development Corporation.

Now in its second year, the 2016 Southern African Metals and Engineering Indaba will be bigger and better, with speakers from our sector and related sectors, such as auto manufacturing, construction and mining. Former President Kgalema Motlanthe will open the conference and Democratic Alliance leader Mmusi Maimane will deliver the closing address. For more details, please visit www.meindaba.co.za.

Register now. In recognition of the current state of our sector and the economy, delegate fees have been reduced – and there is a 10% discount for those registering before 15 March 2016! Don't miss out. Book now.

I look forward to seeing you at the second Southern African Metals and Engineering Indaba in Sandton on 26-27 May.

2016 THE YEAR AHEAD

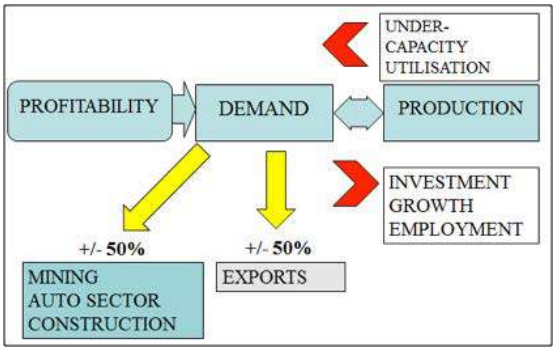
ECONOMIC AND COMMERCIAL

The metals and engineering sector experienced a truly annus horribilis during 2015. At the time of writing, production has dropped by 3%, the third consecutive year of decline; employment numbers have dropped by 1,8% or 7000 people, profit margins have been under severe strain with many companies making losses, capacity utilization is at 75% against a benchmark of 85% and investment in the sector has stagnated (-16%) and imports surged.

For the sector to return to profitability, demand for its products must grow. If demand is greater than production, production will increase and (depending on the strength and sustainability of the recovery) growth will follow, investment will accelerate and employment will increase.

- If demand does not improve, i.e. production remains higher than demand, underutilisation of existing capacity will remain, meaning higher unit costs, even less competitiveness and depreciation of machinery and equipment and job losses.

Schematic 1: Graphical thought layout



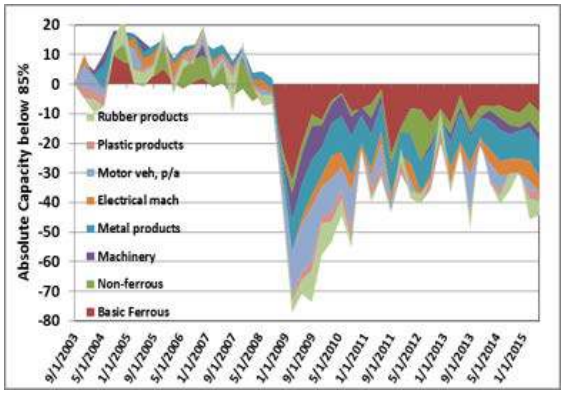
- Higher demand depends on either domestic or export demand improving, or both. Domestic demand is mainly dependent on the outlook for the mining, construction and automotive sectors. Export demand depends on the economies of the sector's main trading partners recovering.

The current state of the sector (end 2015)

The situation can be summarised as follows:

- The sector went into recession in the middle of 2014. The aftermath of the labour and electricity disruptions coupled with weak domestic and international demand seemed to have deepened the crisis during 2015;
- profit margins deteriorated further with many companies making losses;

Graph 1: Capacity underutilisation below 85%



- capacity utilization is at 75% against a benchmark of 85%;
- production has dropped by 3% (2015 on 2014), the third consecutive year of cyclical decline on a structurally lower level since 2009;
- employment numbers have dropped by 1,8% or 7000 people last year and 45 000 since 2007;
- investment in the sector stagnated a (-16%) and imports surged. *Sources: Stats SA, p3043 various issues & SEIFSA*

THE PROSPECTS FOR EXPORT DEMAND GROWTH

The sector exports about 45% of its production, and depends heavily on the domestic mining and the auto sectors which in turn are also driven by exports. All of these sectors depend on five important trends turning positive:

- The global economic growth cycle,
- commodity cycle,
- International capital flow cycle
- our internal political cycle and policy direction
- our cost competitiveness

The slump in the global growth and commodity cycle (made worse by recent Chinese economic instability) will be deeper and more prolonged with the World Bank and IMF continually lowering their forecasts.

Table 1: The export and domestic market exposure of the different sub-industries

Sub Industries in Metals & Engineering Sector	Share	Export as % of Production	Share of Domestic Demand	Domestic Market Drivers
	%	%	%	
Rubber products	3.5	22.8	52.8	Auto Sector, Consumer Spending
Plastic products	10.7	18.5	66.1	Packaging, Consumer Spending
Basic iron and steel products	11.8	68.0	73.6	Mining, Construction, Autos
Non-ferrous metal products	11.1	71.3	42.1	Mining, Construction, Autos
Metal products	22.0	18.2	76.9	Mining, Construction, Consumers
General purpose machinery	23.6	74.5	12.1	Mining, Construction, Autos, Consumers
Motor veh/trailers	11.2	43.9	33.0	Transport, Autos
Electrical Mach & Equip	6.0	21.8	45.6	Mining, Construction, Autos, Consumers
Total/Average	100.0	+/-40	+/-55	

Sources: Statistics SA, Customs & Excise, Quantec & SEIFSA estimates, 2015

The weak prospects for and trends in world manufacturing production was mentioned earlier with only Europe showing strong improvements as measured by the purchasing managers' indices. The overall result is that international demand for metals and engineering products contracted dramatically, and due to oversupply/surplus capacity in the production of almost every one of its product lines, (especially China) dollar prices of products declined as well (some up to 50%). The Chinese State Council announced (24 Jan 2016) closure of steel producing capacity of between 100 and 150 million tons, which is widely applauded, but will only have an impact towards the end of the forecast period.

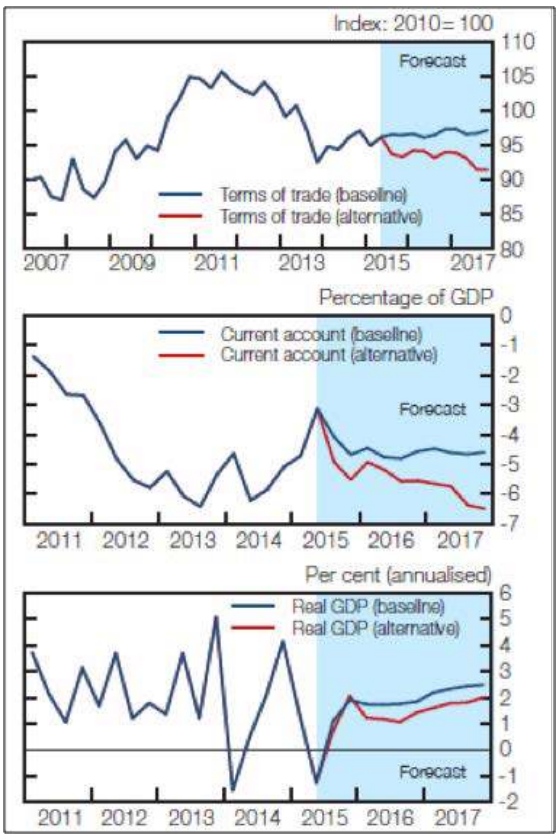
The Rand depreciation hardly compensated for the dollar price declines; overall metals and engineering exports declined by 2,5% in 2015, with the Rand depreciation/windfall included. When that is taken out (standardised for depreciation), it declined by 23% in technical terms, South Africa's terms of trade have deteriorated dramatically (export prices relative to import prices).

Global market conditions indicate a substantially delayed revival of the commodity price cycle beyond 2016, a sign of both weak demand and over supply. Theoretical analysis of the 'super cycle' indicates low prices for at least five years but even up to 10 years. According to the World Bank commodity market outlook (January 2016), recovery will be as follows :

- coal beyond 2020 ($54/mt),
- crude oil by 2019 ($48/barrel)
- all gas prices beyond 2020 except in the USA
- copper, iron ore and zinc beyond 2020
- aluminium, lead and nickel by 2020.

The concern is that these trends have major implications for South Africa's growth prospects, directly related to domestic mining and the auto sector, but also indirectly to construction via the cost implications for infrastructure projects.

Graphs 2: SARB's 'Alternative Scenario'



Source: SA Reserve Bank, Nov 2015

The SARB foresaw the weak international economic scenario being prolonged, and specifically the possibility of SA's exports and terms of trade being affected by it. The Bank called it the 'alternative scenario' in the November 2015 Monetary Policy Review. The implications are as follows;

- Due to a prolonged commodity price slump, the SA terms of trade will deteriorate further up to at least 2017.
- This will result in the balance of payments shortfall (our trade success with the world) deteriorating from about 3% of GDP to 6,5% in 2017.
- This in turn will mean that economic growth will hardly reach 2% on average up to 2017.
- Such a poor growth performance and prospects for the economy is of major concern to credit rating agencies, and
- means low or no growth for the metals and engineering sector.

Table 2: Volume of Export & Domestic orders received

Sub-Industries (Weights)	Orders	Year At Q1 2015 Net Balance	Year At Q1 2016 Net Balance
Base Metals	Exports	-6	-38
23%	Domestic	-14	-44
Fabricated Metals	Exports	-18	-14
23%	Domestic	-11	5
Machinery	Exports	-25	2
23%	Domestic	-40	6
Electrical Machinery	Exports	31	0.75
6%	Domestic	23	-30
Plastics	Exports	11	-61
10%	Domestic	0.5	-34

Source: BER, Manufacturing Survey, Q4, 2015

The BER's quarterly manufacturing survey (Q1, 2016) records perceptions around volumes of export and domestic orders received by the different sub-industries, shown in table 2 (latest 4 quarters ending Q1, 2016 compared with previous period). It is clear that the perceptions (net balance of respondents) about export orders have deteriorated markedly amongst all sub-industries, except machinery producers.

THE PROSPECTS FOR DOMESTIC DEMAND GROWTH

The outlook for economic growth is below 2% for the next three years (2016 to 2018). Virtually every confidence index is below 50 index points, and/or is on a downward trend. The SARB confirmed that the 'alternative scenario' foresaw in November 2015 has become reality in its Monetary Policy Committee statement at the end of its meeting on 28 January 2016, when the Bank announced

- a 0,5% increase in the repo rate.
- It reiterated the trade-off between inflation containment and economic growth, but that the structural problems constraining growth cannot be alleviated by monetary policy.
- It also lowered its forecast for growth in 2016 to 0,9% and 2017 to 1,6%, acknowledging the underlying weakness in the economy and

- very importantly, the SARB's independence from political interference, by implication.

There is a real possibility of the economy sinking into a recession during 2016. The continued weak performance of the metals and engineering sector and its drag on manufacturing production is contributing to this possibility.

Prospects for international market growth depend a lot on economic recovery in Asia (40%), EU (35%) and Africa (22%) and North America (14%) of the market. PMI indicators for all these regions, except the US and the UK, have been moving sideways or declined recently. Only the US growth performance seems to be sustainable, although Asian (Chinese) growth out-performs the rest, but at a slower pace than in the past.

INDUSTRIAL RELATIONS

Despite difficult business conditions the agreement reached with the industry's trade unions on the terms and conditions of employment for a three-year period ending 30 June 2017 has stood resolute and employers can take some comfort in the fact that we will see out the full term of the agreement.

As we gear up in preparation for the next round of industry wage negotiations in 2017, employers will be mindful that the Industry Policy Forum (IPF), created with the purpose of proactively dealing with the various challenges facing the metals and engineering industry has largely failed to deliver on its full potential. The parties this year will be redoubling their efforts on accelerating progress on as many of the items that feature on the IPF agenda. Ultimately, the IPF was created in a pro-active attempt to create a leadership platform for industry stakeholders to engage on the promotion of the growth and viability of the Industry as a key contributor to South-Africa's growth, investment and employment objectives and the development of strategies directed at promoting effective job retention and employment creation mechanism in the industry.

There is little doubt that a key theme that will occupy the agenda of both business and labour in the course of this year and more importantly, as the parties move closer to the next round of negotiations in 2017, is the significant challenges facing the metals and engineering industry in the context of the imperative of creating and sustaining decent jobs and a competitive manufacturing capability in the domestic and global market. Some would argue that the very survival of the industry itself is at stake.

Over the past two decades manufacturing's contribution to the economy has been declining. The metals and engineering sector has seen massive and painful structural changes. Notwithstanding the fact that, during the course of the 2011 and 2014 rounds of industry wage negotiations, SEIFSA focused extensively on these significant challenges, little has been forthcoming and the need to create and sustain competitive manufacturing capability in the domestic and global markets remains as pressing as ever.

The violence, intimidation and unacceptable criminal acts surrounding strikes are not being adequately dealt with through amendments to the labour laws or the criminal justice system.

All this has culminated in a view among employers in the industry that the centralized collective bargaining founded on the one-size-fits-all model is no longer economically viable. The key question that employers will be occupying themselves with in the course of 2017 will be to ask whether it's possible, in the current volatile economic and industrial relations climate, to transition from a one-size-fits-all model to a model that is more aligned to the needs of business.

As the road-map to the next round of industry negotiations begins to take shape, central to how employers will choose to position themselves in dealing with this critical question, will determine whether the next round of bargaining will prove to be watershed moment in the relationship between business and labour where the interest of the industry are placed before the interest of the negotiating partners or whether the next round of negotiations will turn out to be no different to that experienced in 2014, namely tough, uncompromising and accompanied by violent strike action. SEIFSA and the Associations will be doing everything in their power to ensure that the former scenario is realised.

SKILLS DEVELOPMENT AND HUMAN CAPITAL

The year ahead for the steel and engineering environment will be extremely challenging economically. It is anticipated that in view of these challenges, that training and development spend from various companies will be sacrificed and the training and development that does take place will be focused on regulatory and legislative compliance issues. The downside to this is that companies who adopt this approach will

be negatively affected on their Broad-Based Black Economic Empowerment (B-BBEE) scorecard as the new requirements for skills is there needs to be at least 6% spend on training. On the other hand, the pressure from the B-BBEE scorecard to spend the 6% of leviable payroll on training and development could result in more training and development being done. It would probably come down to the extent that a company is prepared to sacrifice a higher B-BBEE level versus their financial challenges.

In regard to the skills development landscape the major change is that the SETA license and National Skills Development Strategy 3 (NSDSIII) comes to an end in March 2016. The Minister of Higher Education and Training has already gazetted the extension of NSDS III for a further two years and has also re-established the SETAs until March 2018. However the extensions and re-establishment was done of the back of the newly-published proposed landscape for skills development. This proposal unpacks the establishing of a new skills development landscape for post school education system and at the time of going to print was out for public comment. It is foreseen that the implementation of changes as covered in the new landscape would be done over the next two years.

The new landscape does contain a few concerns for business and some of these are:

a) Reduction of the funding that becomes available to companies for skills development

b) Making the SETAs into advisory bodies

c) The skills levy being used to cross subsidize sectors

d) The capacity of DHET to manage the SETABs and the shared services

The above being said, it does become essential for business to engage these proposals and make input into that which affect them in the medium to long term.

Some of the human capital challenges that companies would be facing apart from ensuring workforce optimization, increased productivity and efficiency and doing more with less is to consistently ensure that employee engagement and retention is addressed.

SEIFSA will continue to maintain its involvement at national, regional and sectorial strategic level as well as at industry level throughout 2016. This involvement includes participation in the National Skills Authority, merSETA structures, the Human Resource Development Council Technical Working Group, DHET Task Teams, Umalusi as well as the Quality Council for Trades and Occupations.

SEIFSA will engage closely with the associations that are federated to the organisation as well as companies in the industry to ensure that the quality and standards of the skills pipeline for the metals and engineering sector is consistently enhanced. This will ensure that the sector is able to remain competitive both locally and internationally.

HEALTH,SAFETY,ENVIRONMENT AND QUALITY

OCCUPATIONAL HEALTH AND SAFETY AMENDMENT BILL

The discussion of the Occupational Health and Safety Amendment Bill will continue in 2016 at the NEDLAC Labour Market Chamber. The Metals and Engineering Industries are represented by SEIFSA under the auspices of BUSA. The Bill is expected to be published for public comment during the course of 2016. Once the bill is released for public comment, SEIFSA will facilitate discussions on the possible impact of the proposed amendments and submit comments to BUSA on behalf of the associations.

ENVIRONMENTAL LEGISLATION

The National Atmospheric Emission Reporting Regulations came into effect in April 2015. The purpose to regulate reporting of data and information from an identified point, non-point and mobile sources of atmospheric emissions to an Internet based National Atmospheric Emissions Inventory System towards the compilation of atmospheric emission inventories.

Subsequent to the promulgation of the regulation, an online national reporting platform, the National Air Emissions Inventory System (NAEIS) was launched by the Department of Environmental Affairs in September 2015. Categories of employers listed in Annexure 1 of the regulations must register as data providers and report emission levels on the NAEIS website by 31 March 2016. Through this online system, interested parties will now be able to access collated municipal data on air pollution levels.

ISO 9001:2015

Following the publishing of Quality Management System ISO 9001: 2015 last year, organisations certified for ISO 9001:2008 need to begin transitioning their quality management systems in order to align with the new requirements. Organisations with ISO 9001: 2008 certification will have a three year transition period from the date of publication of ISO 9001: 2015. It will be vitally important to raise awareness of the changes within businesses, especially management, in order to facilitate an adoption of a risk based approach to quality management.

CONCLUSION

Monitoring changes in the occupational health and safety and environmental legislation as well as applicable quality standards precedes successful business planning in terms of SHEQ.

LEGAL

During 2015, we saw proposals for a number of legislation and some of which if passed into law this year, could negatively affect the profitability of businesses. One such proposed legislation was by the Department of Transport to ban trucks exceeding nine tonnes from public roads during peak traffic hours. If implemented, this regulation will have far reaching consequences. If anything, it will impact negatively on the Metals and Engineering sector and the economy in general. This proposed regulation is concerning in the face of the economic challenges faced by the Metals and Engineering sector since its performance is poor and under constraint. Most of the Companies in the sector operate between 06h00 to 18h00, producing and transporting steel material within and outside the South African boarders.

The South African rail system which could be used as an alternative to transporting goods by road is not up to standard as its upkeep and maintenance has been neglected by the State for decades. Therefore, there aren't any cost effective methods that can be resorted to. This regulation will have an impact of having consumers pay more because companies will be forced to put more operators on the road.

Further, the restricted freight movement to the proposed times will result in raised employment costs for companies in an environment that is already struggling to create jobs or even sustain existing ones. In addition, transportation costs will have to be increased to mitigate losses that will be brought about by the restriction on freight movement. Freight cost would also increase over public holidays and weekends.

Therefore, the inevitable consequence of the proposed regulation is that companies in the metals and engineering sector will suffer losses and become less profitable.

The Department of Transport should reconsider the implications of the proposed regulation, particularly the impact that it would have on the economy and the labour market, both of which are currently under serious constraints.

Implementation of Tax Harmonisation of Retirement Fund Contributions and Benefits 1 March 2016

National treasury announced on 3 December 2015 that the long awaited Taxation Laws Amendment Act will be implemented on 1 March 2016.

From 1 March 2016 contributions to Pension, Provident and Retirement Annuity Funds will be deductible to the lesser of:

- 27.5% of the greater of remuneration or taxable income, or
- R350 000

Employer contributions to a pension, provident and retirement annuity fund will become a fringe benefit for the employee. In other words it will be taxed in the employee's hands. These contributions, together with the employee's contributions to retirement funds, will qualify for the maximum deductions.

For most members, the total contributions towards your retirement funds are less than the maximum 27,5% or R350 000. Your tax position after 1 March 2016 should remain neutral; you will pay fringe benefit tax on your employer contributions, but get an equal deduction.

Contributions over the annual limit may be carried forward to future years and will be deductible together with contributions made in that year, but subject to the limit applicable to that year. If any such contributions that have been carried forward have not been deducted as at retirement/death, it is to be set off against any lump sum before tax on the lump sum is calculated.

UNDERSTANDING THE TAXATION LAWS AMENDMENT ACT

There has been much comment and speculation regarding the changes to the Income Tax Act (brought through in the Taxation Laws Amendment Act, 2015) that will affect retirement funds with effect from 1 March 2016.

The main purpose of the legislative changes is to eliminate, over time, the differences between pension and provident funds (and especially to require the eventual annuitisation of provident fund benefits on retirement) and to simplify the tax treatment of contributions to retirement funds.

The changes have minimal impact for the members of the Engineering Industries Pension Fund (EIPF), but have quite a significant impact for the members of the Metal Industries Provident Fund (MIPF). There are also payroll changes that must be made by the employers participating in the funds.

1. NO CHANGE IN RESIGNATION BENEFITS

Despite rumours to the contrary, there are no changes to the resignation benefits of members of either Fund. On resignation (or retrenchment or dismissal) members may still elect to:

- take their full benefit in cash, less any tax that is payable;
- transfer their benefit to the retirement fund of their new employer; or
- transfer their benefit to a preservation fund or a retirement annuity fund.

2. TAXATION OF CONTRIBUTIONS

Currently the tax deductibility of contributions to retirement arrangements is as follows:

	Pension Fund	Provident Fund	Retirement Annuity
Member contributions	7.5% of retirement funding employment income	Nil	15% of non-retirement funding employment income
Employer contributions (including medical aid contributions)	The employer has a deduction of 20% f approved remuneration	The employer has adeduction of 20% of approved remuneration	Deemed to be member contributions

With effect from 1 March 2016, the tax deductibility of contributions to all retirement arrangements will be as follows:

	Pension Fund / Provident Fund / Retirement Annuity
Definition of income	Higher of gross remuneration and taxable income
Member and employer contributions	27.5% of income is tax deductible subject to a maximum contribution of R350 000 per annum – any excess above the tax deductible amount will be taxed as income
Employer contributions	Taxed as fringe benefits in the hands of the member (as above)

Member contributions to provident funds, such as the MIPF, will be tax-deductible from 1 March 2016, i.e. they will no longer be paid from after tax salary. For all MIPF members whose salaries are above the tax threshold, this will mean an increase in their take home pay with effect from 1 March 2016.

EXAMPLE

A member of the MIPF with a pensionable salary of, say, R7 000 per month currently contributes R490 per month (7.0%) to the Fund with the balance up to 7.5% transferred from the Contribution Increase Program Reserve Account (CIPRA).

The taxation of these contributions (based on the 2015/2016 tax tables) before and after 1 March 2016 will be as follows.

	Up to 1.3.2016	From 1.3.2016
Total income per annum	R84 000	R84 000
Tax deductible member contributions	-	(R5 880)
Taxable income	**R84 000**	**R78 120**
Tax after allowing for primary rebate	(R1 863)	(R805)
Member contributions	(R5 880)	-
Net take home pay	**R76 257**	**R77 315**

The member's take home pay will therefore increase by some R1 058 per annum, or some R88 per month, with effect from 1 March 2016.

There will be no change to the tax treatment of member contributions to pension funds such as the EIPF as such contributions are already paid out of after-tax income. Note that the change means that member contributions to the EIPF and the MIPF will be treated on a consistent basis from 1 March 2016.

Based on the contribution rates for members and employers, both inclusive of the transfers from the CIPRA, to both Funds, no members are expected to exceed the 27.5% cap. It is also unlikely that any members will exceed the R350 000 cap – based on a combined 18% contribution rate, they would need a pensionable salary of more than R1 944 444 per annum to do so.

Required employer actions:

With effect from 1 March 2016 all employers must reflect the appropriate member and employer contributions on each employee's monthly payslip and on his or her annual IRP5 statement.

Given the nature of the Funds (specifically, the fact that the death benefits are self-insured within the Funds), the legislation requires that the employer contribution rate reflected and taken into account for PAYE purposes is not the actual rate paid to the Fund, even allowing for the transfer from the CIPRA, but rather a deemed contribution rate that must be determined by the valuator of the Fund.

The valuator of the Fund is required to issue Contribution Certificates to the participating employers before 31 January 2016. We understand that the valuator will be issuing three Contribution Certificates as follows:

- EIPF members;
- MIPF members with full benefits; and
- MIPF members who are only covered for risk benefits.

All employers must change the basis of taxation for member contributions to the MIPF, i.e. from 1 March 2016 they must be deducted from after-tax income.

Although no members are expected to breach the 27.5% and R350 000 caps, the employers must check this each month and deduct tax in respect of any members who breach the caps. The employers should inform members who are expected to exceed the R350 000 cap that additional tax will be deducted from their salaries and paid to SARS.

Any amounts over the limits which are subject to tax may be carried forward to future years where the employee may then be under the limits. Any remaining amount which is not offset before the employee leaves the Fund for any reason will be included in the tax free lump allowed on exit from the Fund.

Employers are recommended to consult their payroll consultants or other experts on the implementation of the above.

Please note that the actual member and employer contributions to the Funds remain unchanged.

3. ANNUITISATION OF BENEFITS ON RETIREMENT FROM THE MIPF

Currently members of provident funds are permitted to take their full benefit in cash (subject to tax) on retirement from their provident fund.

With effect from 1 March 2016, the same "annuitisation rules" will apply to provident funds such as the MIPF as currently apply to pension funds such as the EIPF, namely a maximum of one-third of the retirement benefit may be taken in cash (subject to tax) and the balance must be used to purchase an annuity from a registered insurance company, or, if the fund rules so allow, to secure a pension from the fund.

Importantly however, various exemptions will apply to protect existing provident fund benefits, small future accruals and members who are close to retirement, as follows:

- Accumulated provident fund benefits as at 1 March 2016, plus subsequent investment returns earned thereon, may be taken in cash on subsequent retirement.
- For provident fund members who are age 55 or older on 1 March 2016, their further member and employer contributions to the same provident fund, plus investment returns earned thereon, may be taken in cash on subsequent retirement.
- Where any remaining amount after taking the above into account is less than R247 500, it may be taken in cash on retirement. It is expected that the current R247 500 limit will be indexed upwards via future changes to the Income Tax Act.
- Where any amount in terms of the first previous bullet points is transferred to another approved retirement fund (including a pension fund), that amount plus investment returns earned thereon may be taken in cash on subsequent retirement. Note that the rules of the receiving fund may need to be amended before this is possible and that there is an error in the Income Tax Act which needs to be corrected before transfers to pension funds are properly protected.

From the above, it can be seen that annuitisation requirements will only apply to the future contributions of provident fund members who are younger than age 55 on 1 March 2016 or members who join the provident fund after 1 March 2016 (whether they are below or above age 55).

Even then, annuitisation will only be required when their future contributions and the investment returns thereon exceed R247 500. This may take a considerable period of time - the position is most easily understood by considering the following example.

Example: membership period before annuitisation is required

In the table overleaf inflation is assumed to be 5% per annum, salary increases 6% per annum and investment returns 9% per annum. It has also been assumed that the R247 500 limit is not increased over time. The estimated period, in years, before any annuitisation is required, is shown overleaf :

Total member and employer retirement funding contribution rate (excluding contributions for risk benefits and fund expenses)					
Monthly salary	10.0%	12.5%	15.0%	17.5%	20.0%
R5 000	14.7	13.2	12.0	11.0	10.3
R7 500	12.0	10.6	9.6	8.7	8.0
R10 000	10.3	9.0	8.0	7.3	6.7
R15 000	8.0	6.9	6.2	5.5	5.0
R20 000	6.7	5.7	5.0	4.4	4.0
R50 000	3.4	2.8	2.4	2.3	1.9

Estimated period in years before annuitisation is required – de minimis limit unchanged

If the de minimis limit of R247 500 is increased in line with the assumed inflation rate, the period before annuitisation is required is obviously longer:

Total member and employer retirement funding contribution rate (excluding contributions for risk benefits and fund expenses)					
Monthly salary	10.0%	12.5%	15.0%	17.5%	20.0%
R5 000	23.6	20.5	7.8	15.9	14.7
R7 500	17.8	15.4	13.5	11.8	10.7
R10 000	14.7	12.5	10.7	9.5	8.5
R15 000	10.7	8.9	7.7	6.8	5.9
R20 000	8.5	7.0	5.9	5.3	4.7
R50 000	3.8	3.2	2.7	2.3	2.0

Estimated period in years before annuitisation is required – de minimis limit unchanged

Note that the period will differ if experience is different to that assumed. For example, if salary increases and/or investment returns are higher than assumed, the period will be shorter.

The member and employer contributions to the EIPF and the MIPF are currently allocated as follows:

		EIPF	MIPF
Member contributions (inclusive of transfers from CIPRA)		7.50%	7.50%
Employer contributions (inclusive of transfers from CIPRA)		10.50%	10.50%
Less:	Allocation to death benefits	(3.10%	(4.00%)
	Allocation to the PDS	(1.00%)	(1.00%)
	Allocation to Fund expenses	(0.50%)	(0.50%)
Net allocation to retirement savings		13.40%	12.50%

Note that there are no changes to the annuitisation requirements for the EIPF, other than the de minimis limit discussed in the next section.

4. DE MINIMIS LIMIT FOR SMALL BENEFITS ON RETIREMENT

Currently, if a member's total retirement benefit from a pension fund is less than R75 000, the member may take the full benefit as a cash lump, i.e. the requirement to purchase a pension with at least two-thirds of the retirement benefit does not apply. The Income Tax Act allows this exception as it is recognised that an amount of less than R75 000 would purchase a very small pension and the expenses associated with paying such a pension would be very high relative to the pension.

With effect from 1 March 2016, the maximum amount that may be fully commuted for a cash lump sum on retirement has been increased from R75 000 to R247 500, i.e. if a member's total retirement benefit after 1 March 2016 is less than R247 500, the member may take the full amount as a cash lump sum. This change will be of great assistance to members who retire with relatively small amounts of less than R247 500.

For example, a member of the EIPF who retires after 1 March 2016 with total retirement capital of R200 000 will be able to take the full amount in cash (less any tax payable). A member of the EIPF who retires with say R300 000 will only be able to take a maximum of R100 000 (one-third) in cash and must use the balance to purchase a pension.

The R247 500 de minimis limit will also apply to provident funds such as the MIPF after 1 March 2016, as discussed in section 3 above.

5. ADDITIONAL VOLUNTARY CONTRIBUTIONS

The new basis for the taxation of member and employer contributions may provide material scope for members to contribute further amounts to the EIPF and the MIPF on a tax-efficient basis from 1 March 2016 onwards.

Members may elect to make monthly additional voluntary contributions to the Funds, as is currently the case.

Howard Buck

Willis Towers Watson

NET INSTALLATION ENSURES SAFETY AND EFFICIENCY IN LABORATORY

Owing to the intricate nature of their work, testing laboratories at the South African Bureau of Standards (SABS) can often not be shut down during renovations and maintenance, and temporary supporting structures not only come with a considerable financial burden, but limit daily activities too.

Safety and work platform nets have proven to be the most effective fall protection solution for Enza Construction, which has been contracted to install ducting at an SABS testing facility, while ensuring that no disruptions are caused on the laboratory floor.

Two 6 m x 4 m safety nets were recently installed 6 m off the ground by leading rope access specialist Skyriders. Marketing Manager Mike Zinn indicates that a four-man rope access team successfully installed the nets over a two-day period.

"Using slings, the Skyriders team secured the nets to parallel crawl beams that were already secured to the concrete soffit. In certain areas, chemical anchors were placed onto the concrete to ensure greater anchorage," he explains.

Chemical anchors are made up of steel studs, bolts and anchorages which are bonded into concrete, using a resin-based adhesive system. It is ideally-suited for high-load applications. "The chemical anchors were left to cure for 24 hours before installation commenced," adds Zinn.

The Enza construction team needed to work on the underside of the concrete ceiling to install the ducting. Skyriders, therefore, installed shatter ply decking on the work platform to make it easy for the Enza team to walk across, without compromising on safety.

All safety and work platform nets installed by Skyriders are supplied by industrial and commercial netting expert, Industrial Netting, which provides tough and reliable safety nets. Zinn highlights that companies are slowly realising the importance of using safety nets as an alternative for working at heights.

"When installed correctly, safety nets hold up under the toughest demands. In this case, the nets not only ensured construction worker safety, but also enabled SABS testing centre activities underneath the work space to continue uninterrupted, thereby eliminating downtime," he concludes.

SEIFSA WELCOMES NEW MEMBERS

THE FOLLOWING COMPANIES BECAME MEMBERS OF ASSOCIATIONS FEDERATED TO SEIFSA DURING DECEMBER 2015 / JANUARY 2016.

- **BISHO STEEL CONSTRUCTION**

  Eastern Cape Engineering and Allied Industries Association

- **NQOBA BUSINESS ENTERPRISE**

  Lift Engineering Association of South Africa

- **SAMSUNG ELECTRONICS SOUTH AFRICA PRODUCTION**

  Kwa-Zulu Natal Engineering Industries Association

- **ASSIGN SERVICES**

  Constructional Engineers Association (LBD Division)

- **MUZI – LIFTS PROJECTS**

  Construction Engineers Association (CEA Division)

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LBD

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Constructional Engineering Association of (SA)

INDIA

TATA STEEL SLUMPS TO LOSS AS CHINESE IMPORTS BITE

Global steel giant Tata has blamed state-subsidised Chinese steel being dumped on global markets for it falling to a quarterly loss, with the company's United Kingdom (UK) businesses hit particularly hard.

The Indian company reported a third-quarter loss of 21.3bn rupees (£220m), against a profit of 1.57bn rupees in the previous quarter. Revenues were down 4pc at 280bn rupees over the same period.

Tata's European steel arm has plants across the UK, and is one the businesses hardest hit by the steel crisis currently ravaging the UK.

Last month it announced plans for more than 1,000 job losses, focused on its giant Port Talbot plant, adding to the 1,200 positions set to go at its Scunthorpe and Scottish sites.

Posting its performance over the quarter, Tata was clear as to why it had gone into the red, saying that global steel prices had tumbled from about $460 a tonne a year ago to $260 now, and adding that exports of Chinese steel had "surged".

"These unfairly priced imports are distorting the demand-supply balance in many regions, depressing domestic prices and undermining the profitability of many large steel producers," Tata said.

The slowdown in the Chinese economy has created an over-capacity from the country's steel mills estimated at about 360m tonnes a year, which the mainly state-backed plants are dumping abroad, with much of it headed to Europe. Overall, China produces about half of the 1.6bn tonnes of steel produced globally each year.

Tata said that its British operations have been hit particularly hard by this, adding that "unprecedented market conditions, made worse by the UK's regulatory costs and strong pound, led to announcements to reduce jobs and mothball assets in the UK – part of an ongoing transformation programme".

Hinting at further pain ahead for the company's steel plants in Britain and Europe, Tata warned that "regulatory action on a European and national level is needed to enable the business to compete fairly".

Karl-Ulrich Köhler, head of Tata Steel in Europe, said demand for locally-produced steel was being undermined by a "flood" of imports, adding that steel shipments from China to Europe – which he claimed are being produced at a loss - had risen by 50pc.

Trade body UK Steel has led the fight for European Union action to impose trade tariffs on imported steel to prevent it being dumped in the country, though Brussels has been slow to act and when it has, these penalties have been weak.

Last week the European Commission announced levies of up to 13pc on imports of rebar steel used to reinforce concrete, a level which UK Steel called a "totally inadequate and a slap in the face" to British steel makers.

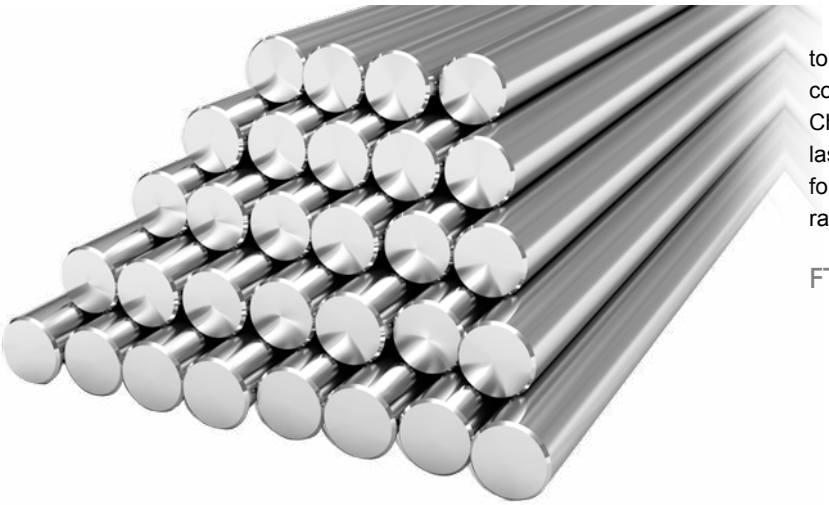
At these levels it assumed that European steel companies would be able to make a "reasonable profit" margin of 1.65pc.

"Basing the provisional duties on a so-called 'reasonable profit level' of 1.65pc is a slap in the face for UK manufacturers of rebar, which have seen China taking more than 45pc of the UK market from zero in as little as four years."

UK Steel wants to see tariffs put in place on other forms of steel and warned that without the current levels being increased, he expected to see further redundancies in the British steel industry.

The scale of the impact that Chinese steel dumping is having on Tata was illustrated in the company's latest figures, when it took a £866m writedown on the value of its UK business at the half-year stage.

Telegraph.co.uk



EUROPEAN UNION

EU PUSHES CHINA TO CUT BACK STEEL SECTOR

The EU's top trade official has called on Beijing to cut overcapacity in its steel industry, promising new measures to support European mills threatened by a flood of Chinese imports. Cecilia Malmström, trade commissioner, told her Chinese opposite number she would open three new anti-dumping investigations into steel products originating from China.

Her letter to Gao Hucheng, Beijing's commerce minister, comes at a time of deepening crisis for the European steel industry, which has lost more than a quarter of its workforce since 2009. Last month Tata Steel, the biggest steelmaker in Britain, announced that it was cutting more than 1,000 jobs.

EU pushes China to cut back steel sector added that more probes were likely because the commission was swamped by EU producers' complaints about allegedly unfair Chinese practices. "In the wake of a worrying trend, I urge you to take all appropriate measures to curb steel overcapacity and other causes aggravating the situation," she said in the letter, seen by the Financial Times. Ms Malmström's tone is likely to alarm Beijing, because it covets recognition as a market economy within the World Trade Organisation at the end of this year The European Commission has delayed its own proposal to grant China such recognition until the summer in the wake of intense opposition from some EU manufacturers.

The commission is now carrying out an impact assessment of the move. A market-economy designation by the EU would be likely to win political favour in Beijing and smooth the way for investments in both jurisdictions.

But it would also make it far harder for countries to retaliate against alleged Chinese dumping with countervailing tariffs. Ms Malmström's letter noted that Chinese exports of steel surged more than 50 per cent last year. She added that price drops of 50 per cent for certain products went "way beyond" the decrease in raw material and energy prices.

FT

HIGH ELECTRICITY PRICE INCREASES WILL HAVE A CRIPPLING EFFECT ON THE ALREADY EMBATTLED METALS AND ENGINEERING SECTOR

A decision by the National Electricity Regulator of South Africa (NERSA) to approve ESKOM's application for further tariff increases would be a critical setback for the metals and engineering sector's competitiveness, contribute to more job losses and postpone the sector's recovery even further, the Steel and Engineering Industries Federation of Southern Africa (SEIFSA) said recently.

Speaking at the NERSA public hearings on Eskom's regulatory clearing account application held at the Gallagher Convention Centre in Midrand on 4 and 5 February, SEIFSA Chief Economist Henk Langenhoven said if the quantum of the application goes through, the already embattled metals and engineering sector would be further crippled.

"SEIFSA is not in favour of any increases. If an increase is absolutely necessary, a much lower percentage increase should be proposed," Mr Langenhoven said.

He added that collectively the mining, construction, the auto and metals and engineering sectors contribute nearly 20% of South Africa's gross domestic product, hence sustaining these important sectors was crucial for the economy.

"The performance of these sectors has deteriorated significantly since June last year and the outlook for the next two years remains dire. Exorbitant electricity price increases will have a crippling effect on these sectors in general and the already declining metals and engineering sector in particular. The metals and engineering sector exports 60% of its production and international competitiveness is key to survival; any electricity cost increase will erode it even further," Mr Langenhoven warned.

"If the quantum of the application goes through, the already embattled metals and engineering sector would be further crippled"

Production in the metals and engineering sector has not recovered since the 2008/9 financial crisis and has deteriorated further since June 2015. Production is currently 30% below the peak of 2007.

The possible overall impact of the envisaged electricity price increases on inflation had been captured by the South African Reserve Bank and the assumptions were that any increase would return to +/- 13% in 2016/17 and 2017/18.

"In this scenario, headline inflation would be 0,1 to 0,4 percentage points higher at an average of 5% and 6,5% for 2015 and 2016 respectively. Most of the impact would be felt through the direct effects of electricity prices, which have a weight of 4,13% in the consumer price index basket. This does not show the impact on producers, of course. The indirect effects are estimated at 0,5 percentage points during 2016," Mr Langenhoven concluded.

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These features distinguish PIPS from general production price or consumer price indices. SEIFSA PIPS has been a reliable tool for more than 50 years and has built a reputation of credibility to such a degree that Statistics South Africa uses some of its data to compile national price indices. In addition, multi-national companies in other sectors of the economy (eg mining and automotives, among others), general government and public corporations (such as ESKOM) rely on SEIFSA PIPS to benchmark their procurement, tendering and sales practices while ensuring cost containment on their projects.

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Alternatively, you are welcome to Contact

Taffie Chibanguza – SEIFSA Economist – Taffie@seifsa.co.za or 011 298 9432

Faith Mabaso – SEIFSA Marketing Manager – Faith@seifsa.co.za or 011 298 9456

LOOKING TO THE FUTURE
THE NATIONAL HUMAN RESOURCES MANAGEMENT SYSTEM STANDARDS AND HR AUDITS

Until recently, worldwide, the one business function that has not been systematised has been the human resources management (HRM) function. HRM is often considered to be concerned with "soft" issues and, therefore, not amenable to being regulated by the adoption of a management standard.

With the active support of the profession in South Africa, the South African Board for People Practices (SABPP) has been able to develop and launch a comprehensive HR Management Standard, with associated assessment and scoring tools to enable successful audits. Since the SABPP launched the initial set of National Human Resources (HR) Standards in 2013, the HR Standards journey has progressed from not only company level but nationally and internationally.

Fact is this is now a global first and it is attracting a lot of attention from all over the world including developed nations such as the United States of America and the United Kingdom as well as developing nations such as our African neighbours. The HRM Standard is complemented by a comprehensive HR Competency Model.

The purpose of the National HR Standards is to reduce inconsistencies in HR practice, and to improve the overall quality of HR practice within companies and at a national level. The National HR Standards have become an overnight success and have already expanded to several African countries. There are currently thirteen (13) National HR Standards which include areas such as:

- Strategic HR Management
- Talent Management
- HR Risk Management
- Workforce planning

- Learning & Development
- Performance Management
- Reward & Recognition
- Employment Relations
- Employee wellness
- Organisation Development
- HR Service Delivery
- HR Technology
- HR Measurement

On 28 August 2014, at the 2nd National HR Standards Roll-out the SABPP Audit Unit was launched in order to adequately prepare companies for the National HR Standards. The HR Audit unit provides an independent centre of excellence for HR audits. This is the first such national HR Audit unit in the world. To date 126 HR Auditors have been trained.

A number of companies have already undergone the base line audit and are implementing the recommendations made by the HR Audit teams, respectively.

HR Professionals, Chief Executive Officers and Board Members alike have seen the light after they have read the HR Audit reports. In some instances, companies have already requested second audits to measure and determine their progress against the base line audit.

What has become apparent from the audits conducted is that Talent Management and HR Measurement are where the most serious HR gaps in South Africa are. HR is not just policies and procedures. While this statement is obviously true from a governance and operational perspective, it is not more important that policies and procedures meet the necessary outcomes, i.e. fit for purpose. When evaluating this aspect, HR Auditors look for evidence that the company's Board has clearly defined and documented its policy and objectives for HR management in relation to the organisation's core objectives. Is this policy specific to the requirements of this organisation? And are there too many or too few policies?

An HR management performance audit is future orientated and can identify areas for organisational improvement.

HR Auditing crosses the boundaries between HR management and auditing… it can be a suitable method for evaluating the contribution of HR activities to organisational objectives assessed on the basis of value for money.

The value of auditing an organisation's business processes and management systems is well accepted. Considerations include good governance, adoption of good practices and process improvement. Standards are considered to be "distilled wisdom" and are the result of international, expert consensus. Therefore, by implementing a management system standard, organisations can benefit from global management experience and good practice. Global and national standards bodies have developed and implemented standards in major functions such as quality management, environmental management, health and safety, energy and risk management.

The HR function is often overlooked for audits and measurement tools which can assess its effectiveness. Too often, audits are restricted to checking on regulatory compliance. However, the SABPP HR Audit is a process that sets the stage for a true transformation in HR strategy and services. It links HR systems and services to organisational objectives while focusing on the business needs of HR's internal customers.

The benefits of an SABPP external audit are numerous. It creases a renewed focus on consistency and standardisation and provides HR Professionals with a robust, risk-based framework to ensure an integrated, aligned and well-governed approach to auditing the National HR Standards.

It ensures that HR controls quality and consistency in accordance with the spirit of good governance as documented in King III.

SEIFSA would like to encourage its members to implement the HR Standards and within their own organisations to ensure human resource practices in the industry not only meet the standard but continue to ensure the excellence and growth of its workforce.

SEIFSA has engaged with Christine Botha as an Alliance partner to support our members with HR Standard implementation and HR Audits. Christine is a Certified HR Auditor of the SABPP, registered as CHRP, a mentor and past member of the SABPP Board. She was also the founding member of the Ethics Committee of the Board. In addition, Christine is Fellow Member of the IOD, a UK Accredited Executive Associate and mentor of the Institute of Independent Business International, and an Accredited Mentor of the USA based CMT. She has also published various books and articles.

For more information contact the Human Capital and Skills Development team on 011 298 9400 or email Melanie@seifsa.co.za

BEE FRONTING EXPECTED TO BE ON A RISE IN 2016

Companies are cautioned to look out for a rise in Black Economic Empowerment (BEE) fronting and circumvention during 2016. The forecast comes from Deon Oberholzer, Chief Executive Officer and Founder of Veri-Com, a leading SANAS-accredited BEE verification service.

”Amended codes with much tougher BEE requirements are now in full force. As the more rigorous dispensation dawns on us, many firms will realise they may have left it too late to embrace the new system and achieve acceptable BEE status in 2016-17,” says Oberholzer

Non-compliance could endanger the business of BEE laggards supplying government, state-owned enterprises and big corporates committed to empowered procurement.

To respond the amended codes, Oberholzer believes that there are some companies who will desperately fast-track real empowerment at the last minute. This was still possible, given the right advice and strong senior management buy-in.

“Others will be tempted to cheat,” Mr Oberholzer says.

Numerous avoidance schemes are possible, but Mr Oberholzer highlights four basic structures.

1. The 51% ‘black-owned’ qualifying small enterprise

This scheme, says Mr Oberholzer, fabricates black ownership through “a powerless and easy to remove BEE grouping” – perhaps a development trust, a vaguely defined broad-based trust or employee trust in a cascading ownership model that exploits the modified flow-through principle built into BEE legislation. As a result, an effective 26% shareholding is inflated, creating 51% ‘black ownership’.

He notes: “Majority black ownership creates procurement advantages when bidding for tenders. Furthermore, a ‘black-owned’ company can save costs and fatten margins as it is exempt from other BEE provisions and does not need to invest in the development of black people. Verification and oversight

are avoided. A sworn affidavit is acceptable proof of compliance."

2. Black intermediaries

In this case,, Black-owned intermediaries, agents or distributors are created with the sole purpose of channelling client orders to a white-owned company.

The white-owned company offers its products and services through the black-owned company with no significant price or service disadvantages.

"As long as revenues of the black-owned intermediaries are kept under the R50 million exemption level, only a sworn affidavit is required, avoiding any need for verification or oversight. The white-owned company can ignore BEE codes, remain non-compliant and continue in business," Mr Oberholzer explains.

3. 'Black-owned' procurement hubs

In this scenario, black ownership is fabricated for a supply chain business.

The hub takes orders and buys specified products from a predetermined supplier at a predetermined price and arranges delivery. All invoicing is done through the 'black-owned' hub. In reality, the customer can maintain existing relationships with white-owned suppliers by making use of the hub for a small premium. The hub can also act as a logistics company, thereby delivering the product to the white-owned company.

The scam, according to Mr Oberholzer addresses a supply chain challenge for companies that are expected to channel 40% of their procurement spend to black-owned companies and 12% to black women-owned companies.

"Goods procured through this arrangement are automatically rendered black. The scheme can be used to procure goods from non-compliant local companies or to 'shield' imports that do not qualify for exclusion from BEE procurement."

He believes other forms of circumvention can also be expected and predicts the emergence of "an informal but active secondary market for Government tenders".

Mr Oberholzer states that Human Settlements Minister Lindiwe Sisulu has already warned small black contractors and developers to refrain from onselling Government housing tenders to big firms for easy money. She reiterated that Government wants small black-owned business to grow into big black-owned business, not remain pawns in the status quo.

Mr Oberholzer concluded that fundamental shifts in the structure of the South African economy to empower black-owned business will be difficult to achieve in an environment where BEE fronting and circumvention are rife."

ABOUT DEON OBERHOLZER AND VERI-COM

Veri-Com, a SANAS accredited BEE Verification agency, guides business leaders of Qualifying Small Enterprise (QSE's) on the challenges and opportunities they face around BEE verification, offering keen insight into BEE legislation, enterprise development, turnaround strategies, mergers and acquisitions, rural development and empowerment investment.

SEIFSA'S BURSARY STUDENT EXCELS

SEIFSA three-year bursary student Rebecca Aub has been recently awarded:

- Top Transportation Engineering student
- Top Geotechnical Engineering student
- Top Final Year Student,

at the University of Johannesburg's Civil Engineering Department's Prestige Evening.

Rebecca has continuously been a top achiever during her three years as a SEIFSA bursary student. Her final thesis and presentation was an INVESTIGATION OF A HONEYCOMB STRUCTURE AS A DURABLE AND LIGHTWEIGHT STRUCTURAL WALL PANEL.

"It is very encouraging to award bursaries to top-perfoming students who are dedicated to their studies. We, at SEIFSA, are very proud of Rebecca and we wish her everything of the very best for for her undoubtedly bright future," says SEIFSA Human Capital and Skills Development Executive Mustak Ally. □

SEIFSA TRAINING CENTRE

NEXT INTAKE DATE:

MARCH 29

JUNE 21

The SEIFSA Training Centre is a state-of-the-art training centre that has both the resources of industry experts and equipment to offer specialised skills training

The training offered encompasses not only apprentice training but also training and development for the following training interventions:

- Learnerships
- Skills programmes
- Short courses
- Recognition of Prior Learning (RPL)
- Trade proficiency assessment services
- Trade testing
- Assessments
- ATRAMI (Artisan Training and Recognition Agreement for the Metal Industry)
- Continuous upskilling of artisans

In the following trades:

- Boilermaking
- Welding
- Pipefitting
- Fitting & Turning
- Fitting
- Turning
- Toolmaking
- Electrical
- Millwright
- Instrumentation

We pride ourselves on being accessible to our clients in terms of:

- Our mode of delivery - our site or yours
- Learner prior knowledge and other entry requirements
- Costs - fees and payment options
- Location - public transport and accessibility

MANAGING **HIV/AIDS** IN YOUR WORKPLACE

An effective approach to communication is central to the success of your company's HIV/AIDS prevention strategy. Therefore, it is worth having a strategy for your communications, and taking time to plan. In this article, we look at a few specific components of an HIV/AIDS communication strategy.

ADAPT YOUR MESSAGE

You need to be specific about your communication approach or messaging for various 'audiences' within your company. There are typically four audiences: general employees; management or executives; employees in Human Resources or Wellness; and HIV/AIDS Educators. This is just a guide however – there may be more or fewer audiences in your company; take the time to determine who your audiences are; then adapt the content of your communication to the various audiences for relevance and impact.

CHANNEL YOUR COMMUNICATIONS CORRECTLY

Choose how you are going to communicate the message to your audiences – will you use emails or present information at a meeting, or perhaps an article in the company's magazine or a printed insert into employee payslips? You need to choose methods that will be the most appropriate to get the message across, e.g. face-to-face communication for employees that don't have email, and so on. Importantly, make sure the language you communicate in is spoken by everyone; you also need to consider differing levels of literacy to ensure everyone understands (for example, run a workshop or use narrated video for those who can't read).

There are a range of media and communications approaches that can be used; while not exhaustive the following list gives an idea of what's available:

- Face-to-face interaction: staff meetings, workshops, training sessions, single/group counselling sessions
- Written communications: Pamphlets, posters, notice boards, newsletters, magazines, training manuals.
- Electronic media: online video, social media such as Facebook, Twitter, etc. and then more traditional forms of electronic communication such as e-mail, company website, podcasts, telephonic (info hotline)

We've briefly looked at adapting your message and possible options for how to get your message across; the next article will focus on what type of information is generally communicated as part of an HIV/AIDS communication strategy.

INTRODUCTION OF CARBON TAX COULD DEAL SOUTH AFRICA'S RE-INDUSTRILIZATION PLANS A SERIOUS BLOW, ARGUE NONHLALO MPHOFU AND BRIDGETTE MOKOETLE.

On 2 November 2015 the South African National Treasury published a Draft Carbon Tax Bill for comment. While it is commendable that the South African Government takes very seriously issues of environmental sustainability and is actively putting in place measures aimed at reducing carbon emissions in order to sustain the environment, caution must be taken to ensure that such measures, including the introduction of carbon taxes, do not further strain the already ailing South African economy.

The introduction of carbon taxes is considered as the most effective instrument for curbing climate change when compared to other measures such as emissions trading system. Within the South African context, it augments the existing environmental legislation and underpins the "Polluter Pays" principle. Therefore, it stands to reason that the introduction of carbon taxes will play a crucial role in curbing green-house gas emissions which contribute to global warming which, in turn, results in climate change.

There is no doubt that, along with other developing countries, South Africa should and must play an active role in curbing climate change, which is a looming threat to sustainability of the environment for present and future generations to come.

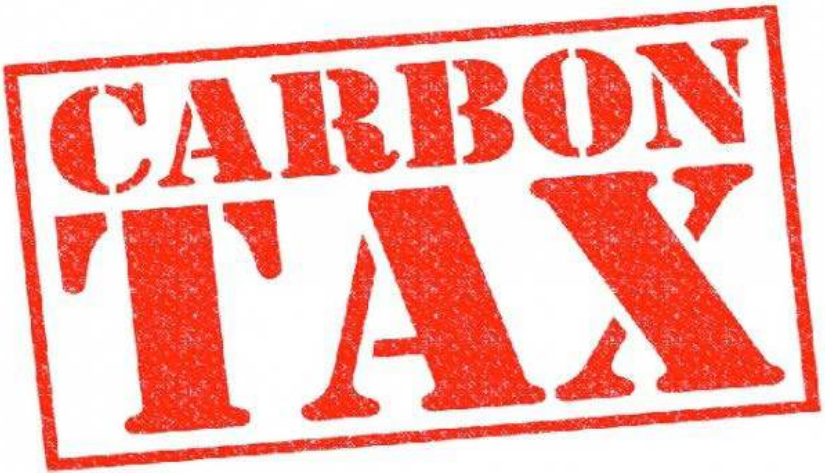
However, the question is: is it worthwhile for South Africa to be at the warfront against climate change?

Caution needs to be taken to ensure that efforts to

reduce green-house gas emissions do not add further insult to South Africa's already bleeding economy or, even worse, hamper the country's economic growth plans.

The introduction of the Draft Carbon Tax Bill also comes at a time when the South African economy in general and the metals and engineering sector in particular are burdened with a host of negative economic factors such as higher production costs, lack of demand, labour unrest and compliance red tape, among others.

For a developing country such as South Africa which has identified re-industrialization as one of the key initiatives aimed at unlocking the country's economic growth potential, introducing carbon tax poses a threat of negatively impacting on South Africa's growth plans. Industrialization naturally entails large-scale introduction of manufacturing and other productive economic activities, which inevitably generate emissions in the process.



Re-industrializing the South African economy would also result in an increased demand for power. South Africa's heavy reliance on coal for electricity generation means that as the country re-industrializes and as more power is generated more emissions will be generated in the process. Imposing carbon taxes will hinder the Government's own objectives of stimulating the South African economy through re-industrialization. This would deal South Africa's growth objectives a serious blow.

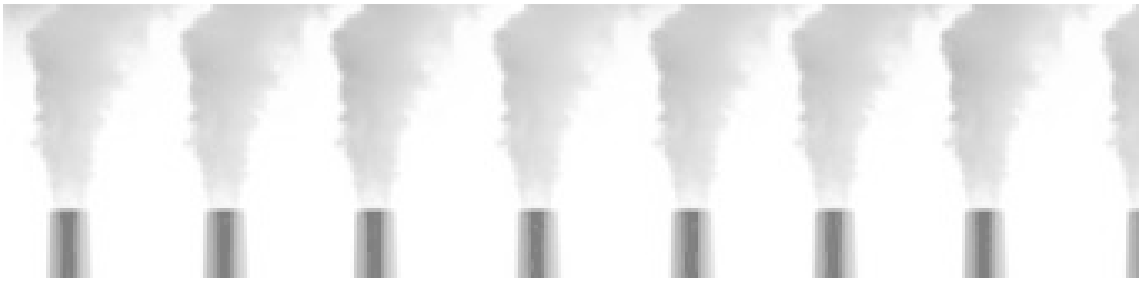
Apart from potentially having a negative impact on the Government's own growth plans, such taxes have the potential to crowd out foreign direct investment. Why should foreign investors invest in a country that punishes investors when there are other countries on the African continent that have no such taxes?

Another unintended consequence of the proposed carbon tax is the impact that it would have on consumers who would ultimately bear the brunt as companies such as Eskom increase tariffs in order to recoup expenditure incurred from the payment of the carbon tax.

South Africa's eagerness to decelerate environmental damage displayed in its pledge to reduce emissions by 34% by 2020, and 42% by 2025, while one of the biggest polluters, the USA, pledged a reduction "in the regions of" 17% from its 2005 levels by 2020 is unnecessary.

While we do not in any way condone irresponsible corporate conduct and support sustainability, nevertheless we believe that there is no reason for South Africa, which contributes less than 1% to global emissions, to take the lead in climate change mitigation by being one of the few countries to introduce a carbon tax.

Nonhlalo Mphofu and Bridgette Mokoetle are the Safety, Health, Environment and Quality Executive and the Industrial Relations and Legal Services Executive respectively.



EQUAL PAY FOR WORK OF EQUAL VALUE

Do employees of a labour broker that your company is using have to be paid the same as your permanent employees, and what about employees that your company employ on fixed or limited duration contracts?

The new Equal Pay for Work of Equal Value provisions in the Labour Relations Act (LRA), have far-reaching consequences for all employers, especially those who make use of labour brokers and limited duration contracts.

Section 198A(5) of the LRA states that an employee deemed to be an employee of the client, must be treated on the whole not less favourably than an employee of the client performing the same or similar work, unless there is a justifiable reason for different treatment.

And in section 198B(8) of the LRA, an employee employed on a fixed term contract for longer than three months must be treated on the whole not less favourably than an employee on an indefinite basis performing the same or similar work, unless there is a justifiable reason for different treatment.

There is currently an increasing amount of equal pay for work of an equal value disputes being referred to arbitration. In order to avoid your company from falling foul of the LRA on these matters, it is imperative that you familiarise yourself with what constitutes work of an equal value and the justifiable reasons that will allow different treatments in remuneration.

SEIFSA in conjunction with Global Business Solutions, CAPES and APSO is proud to host a business breakfasts during which Johnny Goldberg will help employers and labour brokers understand what the changes mean and how to ensure compliance with this new legal obligation while maintaining flexibility and cost.

WHY SHOULD YOU ATTEND?

The Breakfast briefing will cover:

- Understanding what are justifiable reasons for paying comparable employees differently;
- Distinguishing between work that is the same, substantially the same or of equal value;
- Understanding risk, especially when labour brokers are utilised;
- Getting to grips with “reverse onus” i.e. what it means for the Employer; and
- What has been the impact of the legislation thus far.

DATE

23 March 2016

VENUE

Huddle Park, Golf and Recreation
Club road
Linksfield

TIME

9:30 - 12:00

FEES PER DELEGATE

Members	R650.00 (excl. VAT)
Non member	R815.00 (exl. VAT)

INCLUDE IN THE FEES

- Refreshments
- Parking
- Networking opportunities and presentation

For more information, please contact:

Michael Lavender
SEIFSA Industrial Relations Manager
011 298 9415 or michaell@seifsa.co.za

Faith Mabaso
SEIFSA Marketing Manager,
011 298 9456 or faith@seifsa.co.za or

CAUTION SHOULD BE TAKEN TO ENSURE THAT NEW PENSION FUND LAWS DO NOT DEPRIVE CITIZENS OF THEIR RIGHTS TO ECONOMIC PARTICIPATION, ARGUES BRIDGETTE MOKOETLE.

President Jacob Zuma has recently signed the Taxation Amendment Act into law, which has brought about changes to the Pension Fund laws. In terms of the amendment Act, from 1 March 2016 a member of a pension fund is entitled to get only a third of the total benefit in a cash lump sum and the other two-thirds is paid out in a form of a pension over the rest of the member's life.

While one cannot argue that there are disadvantages to members receiving all of their benefits in a lump sum,- such as spending the money quickly and not investing it in any sort of vehicle that would yield a financial return and subsequently depending on the Government for State pension for the rest of their lives, one can also argue that the Government's decision to amend the Pension Fund Laws also poses the risk of denying the retired individuals' rights to participate meaningfully in the economy, such as creating and accumulating wealth for themselves. This may be something towards which they may have worked all their lives.

Firstly, let us consider an employee who has worked for approximately 15 years with a plan to start a small business upon his or her retirement. The business may be related to the work and skills that he or she has acquired during his working life and has learned the relevant business principles necessary for the viability and survival of the enterprise.

Let us also consider a person who plans to use his lump sum to buy a house, a plot of land, or livestock, another form of wealth creation.

What of an employee who owes a mortgage on his residential property to the equivalent of more than a third of the total retirement benefit? The plans of this particular individual may be to pay off his or her mortgage upon his retirement.

The Government's new Pension Fund Laws may very well not only result in this retired employee's house getting repossessed, but they may also deny a potential entrepreneur an opportunity to establish a financially-viable business and an opportunity to create employment for others.

While one is not entirely against the regulation of pension payouts, nevertheless one is of the firm view that a blanket system should not be applied without exemptions, as is currently the case. One also believes strongly that the Government has failed to apply its mind properly to the impact and/ or effect of this piece of legislation to the greater working force of South Africa, particularly those who live below the middle-class band.

One is of the view that an acceptable approach to the introduction of the Pension Fund legislation would be one making provision for by a commission or body to which applications would be made, motivating for payments above the prescribed one third. An example of such an application might be from a person who is due to resign from a job and has a financially-viable business idea for which he/she has not been able to get funding from financing institutions. Instead of being deprived of an opportunity to create equity for himself or herself and or employment for other persons, this individual should be afforded an opportunity to make representations to the commission. The commission or body would then assess an application on its own merits and make a ruling or a recommendation.

The question that the reader might ask is how this commission or body would be funded. Well, most of the employees are tax payers through the pay-as-you-earn system and, needless to say, the current State pensions are subsidies from this form of tax.

While the Government's decision to change Pension Fund Laws might have come from the right place, caution needs to be taken to ensure that efforts to reduce dependence on Government's State pension by retired individuals do not result in unintended consequences of infringing on people's right to participate meaningfully in the economy.

Bridgette Mokoetle

Industrial Relations and Legal Services Executive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